

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JOE BALTAS,

Plaintiff,

v.

HAROLD W. CLARKE, *et al.*,

Defendants.

Civil Action No. 7:20-cv-00276

MEMORANDUM OPINION

By: Hon. Thomas T. Cullen
United States District Judge

Plaintiff Joe Baltas, an inmate proceeding *pro se*, filed this civil action under 42 U.S.C. § 1983 against various correctional officials with the Virginia Department of Corrections (collectively, the “VDOC Defendants”), three nurses at Red Onion State Prison (collectively, the “Medical Defendants”), and Connecticut Department of Corrections (“CDOC”) Commissioner Rollin Cook. On March 18, 2021, the court granted in part and denied in part motions to dismiss filed by the VDOC Defendants and the Medical Defendants. The court also dismissed certain claims against Cook without prejudice under 28 U.S.C. § 1915(e)(2), and granted Baltas’s motion to serve Cook. Although Cook subsequently agreed to waive service of process, he has not appeared in the case.

On July 9, 2021, Baltas, the VDOC Defendants, and the Medical Defendants filed a stipulation of dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). (*See* ECF No. 139.) The stipulation of dismissal was signed by Baltas, counsel for the VDOC Defendants, and counsel for the Medical Defendants. In accordance with the stipulation, the court entered an order dismissing the action with prejudice as to the VDOC Defendants and the Medical Defendants. (*See* ECF No. 142.)

In the same order, the court noted that it was unclear from the record whether Baltas wished to proceed against Cook in this case.* (*Id.* at 2.) The court advised Baltas that if wished to proceed against Cook, he must file an amended complaint within 21 days that named Cook as the sole defendant. (*Id.*) The court warned Baltas that if an amended complaint was not filed within 21 days, the court would dismiss the case without prejudice as to Cook. (*Id.*) Baltas has not responded to the court's order, and the time for doing so has expired. Accordingly, the court will dismiss the action without prejudice as to Cook.

ENTERED this 16th day of August, 2021.

/s/ Thomas T. Cullen

HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE

* As the court noted in its previous order, at least one of the same claims is pending against Cook in the United States District Court for the District of Connecticut. *See Baltas v. Maiga, et al.*, Civil Action No. 3:20-cv-01177 (D. Conn. Aug. 13, 2020).